

Bureau of Indian Affairs, Interior

§ 103.11

services from the Bureau of Indian Affairs, and indicating reasonable assurance of repayment, are eligible for guaranteed or insured loans. If Indian ownership of an economic enterprise falls below 51 percent, the borrower shall be in default and the guaranty shall cease and the interest subsidy shall be discontinued. Cooperative associations, corporations and partnerships shall be organized pursuant to state, federal or tribal law. Cooperative associations, corporations, and partnerships applying for a guaranteed or insured loan to purchase, establish or operate an economic enterprise on a reservation must comply with the requirements of applicable rules, resolutions, or ordinances enacted by the governing body of the tribe, if applicable.

[40 FR 12492, Mar. 19, 1975; 40 FR 20952, May 15, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46473, Oct. 8, 1992]

§ 103.8 Eligible individuals.

Indians who are members of tribes recognized by the federal government as eligible for services from the Bureau of Indian Affairs are eligible for guaranteed or insured loans. Individuals applying for a guaranteed or insured loan to purchase, establish or operate an economic enterprise on a reservation must comply with the requirements of applicable rules, resolutions or ordinances enacted by the governing body of the tribe.

[54 FR 34975, Aug. 23, 1989]

§ 103.9 Eligible lenders.

(a) Those financial institutions subject to examination and supervision by an agency of the United States, a state, or the District of Columbia, having the capacity to evaluate, process, disburse, and service loans, and Indian tribes making loans from their own funds to other tribes or organizations of Indians, are eligible to have loans insured under this part 103. Loans made by any lender regularly engaged in making loans, having the capacity to accept and process applications and service loans, and which lender is satisfactory to the Commissioner, may be guaranteed. Any national bank or federal savings and loan association, or any bank,

trust company, building and loan association, or insurance company authorized to do business in the District of Columbia may make any loan of which at least 20 percent is guaranteed under this part 103 without regard to the limitations and restrictions of any other federal statute with respect to:

- (1) Ratio of amount of loan to the value of the property;
- (2) Maturity of loans,
- (3) Requirement of mortgage or other security,
- (4) Priority of lien, or
- (5) Percentage of assets which may be invested in real estate loans.

(b) Any guaranty certificate issued pursuant to this part 103 or any loan insured pursuant to an agreement with a lender approved in accordance with this part 103 shall be conclusive evidence that the loan was eligible for guaranty or insurance.

§ 103.10 Ineligible loans.

The following loans are not eligible for guaranty or insurance under this part 103:

- (a) Loans made by any agency or instrumentality of the federal government.
- (b) Loans made by an organization of Indians making loans from funds borrowed from the United States.
- (c) Loans where the interest income is not included as taxable income under chapter 1 of the Internal Revenue Code of 1954 as amended.
- (d) Loans with repayment terms exceeding thirty years.
- (e) Loans which are linked to Federally tax-exempt bond obligations.
- (f) Loans to a borrower whose equity, as defined in § 103.1, in the business being financed is less than 20 percent.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 57 FR 46473, Oct. 8, 1992]

§ 103.11 Guaranteed loans.

Loans, except those excluded in § 103.10, made by any lender meeting the requirements of § 103.9(a), which are satisfactory to the Commissioner may be guaranteed. Applications for guaranty will be considered on a loan by

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loan basis. No guaranty shall be effective until issuance of a guaranty certificate by the Commissioner and receipt of the guaranty premium from the lender. A guaranty certificate shall be issued only when, in the judgment of the Commissioner, there is a reasonable prospect of repayment of the loan.

§ 103.12 Insured loans.

(a) Eligible lenders, as prescribed in § 103.9, and tribes making loans from their own funds to other tribes or Indian organizations, may make insured loans, except those excluded in § 103.10 pursuant to the provisions of an insurance agreement entered into between the Commissioner and the lender. Insurance agreements may be entered into by the Commissioner and eligible lenders which will authorize the lenders to make insured loans to eligible applicants without the Commissioner's approval of each individual loan. Separate insurance agreements will be issued by the Commissioner for those loans which require the issuance of individual insurance agreements.

(b) Lenders will make loans only when there is a reasonable prospect of repayment. The insurance on any loan made under the provisions of an insurance agreement will not be effective until receipt of the insurance premium by the Commissioner.

§ 103.13 Amount of guaranty.

(a) The percentage of a loan that is guaranteed shall be the minimum necessary to obtain financing for an applicant, but may not exceed 90 percent of the unpaid principal and interest. The liability under the guaranty shall increase or decrease pro rata with an increase or decrease in the unpaid portion of the principal amount of the obligation. No loan to an individual Indian, partnership, or other non-tribal organization may be guaranteed for an unpaid principal amount in excess of \$500,000 or such maximum amount provided in any amendments to the Indian Financing Act of 1974.

(b) Applications of minors as determined by applicable state and federal law, may not be approved unless the natural parents or legal guardians, with reputations as being responsible individuals, co-sign the promissory

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note(s) and securing document(s). Not more than one guaranteed loan may be in effect with the same borrower at any time without the prior approval of the Commissioner.

[40 FR 12492, Mar. 19, 1975. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 54 FR 34975, Aug. 23, 1989; 57 FR 46473, Oct. 8, 1992]

§ 103.14 Amount of insurance.

(a) The insurance provisions will apply to loans made by a particular lender under the terms of an insurance agreement entered into between the Commissioner and the lender. The insurance procedure will be used primarily for loans to finance small economic enterprises and secondarily for housing. A lender may be reimbursed for a loss on a particular loan in an amount not to exceed 90 percent of the loss on principal and unpaid accrued interest on the loan. However, the total reimbursement to a lender for losses may not exceed 15 percent of the aggregate of insured loans made by it.

(b) Loans for any amount made by tribes from their own funds to other tribes or Indian organizations will not be insured without the prior approval of the Commissioner. No loan to finance an economic enterprise with a principal amount in excess of \$50,000 shall be insured without the prior approval of the Commissioner. No loan to an individual Indian may be insured which would cause the total unpaid principal amount to exceed \$100,000. Any loan to an individual Indian having a principal amount in excess of \$50,000 will require prior approval of the Commissioner. No loan to an individual with a principal amount of less than \$2,500 or for a term of less than one year may be insured. No loan to a tribe or Indian organization for a principal amount of less than \$10,000 for a term of less than one year may be insured. An exception may be made to these limitations on amounts and time, if approved by the Commissioner.

(c) Applications of minors may not be approved unless the natural parents or legal guardians, with reputations as being responsible individuals, co-sign the promissory note(s) and securing documents. Not more than one insured loan may be in effect with the same